

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<b>SWINERTON BUILDERS</b>	§	
<b>Plaintiff</b>	§	
	§	<b>CIVIL ACTION NO. 4:10-cv-01791</b>
<b>vs.</b>	§	
	§	
<b>ZURICH AMERICAN INSURANCE</b>	§	
<b>COMPANY, ACE AMERICAN</b>	§	
<b>INSURANCE COMPANY, ATLANTIC</b>	§	
<b>CASUALTY, CONTINENTAL</b>	§	
<b>WESTERN INSURANCE COMPANY,</b>	§	
<b>HARTFORD CASUALTY INSURANCE</b>	§	
<b>COMPANY, CNA TRANSPORTATION</b>	§	
<b>INSURANCE COMPANY, ST. PAUL</b>	§	
<b>MERCURY INSURANCE COMPANY</b>	§	
<b>and AMERISURE MUTUAL</b>	§	
<b>INSURANCE COMPANY</b>	§	
<b>Defendants</b>	§	

**JOINT NOTICE OF SETTLEMENT**

TO UNITED STATES DISTRICT JUDGE KENNETH M. HOYT:

COME NOW Plaintiff Swinerton Builders (“Swinerton”) and Defendant Amerisure Mutual Insurance Company (“Amerisure”) and jointly file this Notice of Settlement, and show the court as follows:

**BACKGROUND**

After the December 20, 2011 mediation held in this matter, Swinerton and Amerisure were able to reach a settlement of all claims which Swinerton and its insurers have or may have against Amerisure arising out of the underlying lawsuit, this lawsuit, and the Student Services Building at issue in the underlying lawsuit. Swinerton and Amerisure are currently in the process of preparing and executing mutually agreeable settlement documents, and upon

execution of such settlement documents and payment of the agreed-upon settlement amount, Swinerton will file a Stipulation to Dismiss Amerisure with Prejudice.

The settlement between Swinerton and Amerisure does not affect the affirmative cross-claims Amerisure has in the present case against Co-Defendants Zurich American Insurance Company, Travelers Insurance Company, ACE American Insurance Company, Atlantic Casualty, Continental Western Insurance Company, Hartford Casualty Insurance Company, St. Paul Mercury Insurance Company, and CNA Transportation Insurance Company.

**REQUESTED RELIEF**

The Court is requested to take note of the settlement between Swinerton and Amerisure and refrain from ruling on any outstanding motions currently pending (1) against Amerisure that were filed by Swinerton and (2) against Swinerton that were filed by Amerisure. The Court is further requested to dismiss all claims filed by Swinerton against Amerisure with prejudice once the stipulation of dismiss is filed.

Respectfully submitted,

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**AND**

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**ATTORNEYS FOR DEFENDANT  
AMERISURE MUTUAL INSURANCE  
COMPANY**

**CERTIFICATE OF SERVICE**

I hereby certify that on February 9, 2012, a true and correct copy of this document was filed via the Court's ECF system pursuant to LR5.1. The notice of electronic filing generated by the ECF system constitutes service of the document on counsel who are registered users of the system. Any other counsel of record will be served pursuant to FRCP 5(b) on this same date.

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